

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**BYRON PAXTOR-LOPEZ,**

**[DOB: 12-19-1987],**

**Defendant.**

**Case No. 18-5005-01-CR-SW-MDH**

**MOTION FOR DETENTION**

The United States of America, by and through Timothy A. Garrison, United States Attorney for the Western District of Missouri, and the undersigned Assistant United States Attorney, respectfully requests that this Court order the detention of the defendant, Byron Paxtor-Lopez. In support, the United States offers the following suggestions:

1. An indictment has been filed charging the defendant with having unlawfully re-entered the United States after having been removed and subsequent to a felony conviction, in violation of Title 8, United States Code, Section 1326(a) and (b)(1).
2. Title 18, United States Code, Section 3142(f)(2) provides that a hearing shall be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community upon a motion of the attorney for the Government or upon the judicial officer's own motion, when there is a serious risk that the defendant will flee, or when there is a serious risk that the defendant will "obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror."

3. Regarding the defendant's risk of non-appearance, the defendant currently has an immigration detainer that has been lodged with the U.S. Marshal Service. The existence of an ICE detainer by itself is not a categorical, per se basis for detention because the Bail Reform Act creates no per se category of persons who must be detained, absent an individualized inquiry into the person's risk of flight or danger to the community. However, the Court can consider the defendant's status and existence of pending immigration proceedings as information relevant when considering other factors under the Act since they indicate prior noncompliance with federal law and thus are analogous to a prior criminal history. In this regard, the defendant is a citizen of Guatemala, not lawfully present in the United States. Further, the defendant has a track record of refusal to conform his conduct to what United States' laws require, as shown by his entering and re-entering the United States without permission. On June 22, 2016, the defendant was ordered deported from the United States to Guatemala. The defendant was subsequently deported on or about July 21, 2016, from the United States to Guatemala, at or around Alexandria, Louisiana.
4. Regarding the danger this defendant poses to the community, the Government notes the following from the defendant's criminal history:
  - a. On June 23, 2009, defendant Paxtor-Lopez was convicted of driving with a revoked operator's license in the Municipal Court of Monett, Missouri, and was sentenced to 2 days in jail.
  - b. On April 18, 2011, the Monett Municipal Court, Barry County, Missouri, Case No MU5A110774, charged defendant Paxtor-Lopez with third-degree domestic assault. The defendant was documented to be under the influence of alcohol. Defendant Paxtor-Lopez pleaded guilty and was sentenced to 12 months' unsupervised probation.

- c. On January 9, 2016, the Carthage, Missouri, Police Department filed an incident report in Case No. 160126, charging defendant Paxtor-Lopez with driving under the influence, driving with a suspended license, and no proof of insurance. Defendant Paxtor-Lopez pleaded guilty and was sentenced to pay fines and court costs.
  - d. On March 11, 2016, the Monett Municipal Court, Barry County, Missouri, Case No. 16BR-CR00395, charged defendant Paxtor-Lopez with first-degree burglary, third-degree domestic assault, and property damage. These charges were dismissed.
  - e. On March 11, 2016, the Monett Municipal Court, Barry County, Missouri, Case No. 16BR-CR00610, charged defendant Paxtor-Lopez with first-degree burglary. Defendant Paxtor-Lopez pleaded guilty on June 20, 2016, and received a suspended execution of sentence of six years' incarceration with the Department of Corrections, along with five years' supervised probation.
5. Finally, the evidence of the defendant's guilt is overwhelming. *See* 18 U.S.C. § 3142(g)(2).

Based upon the foregoing, the United States submits that there is clear and convincing evidence that the defendant poses a danger to the community, and a preponderance of the evidence indicates that there are no conditions the Court could impose that would reasonably assure the defendant's presence at trial. The Government therefore respectfully requests that a detention hearing be held, and that the defendant be detained pending trial of this matter.

Respectfully submitted,

TIMOTHY A. GARRISON  
United States Attorney

By: /s/ Steven M. Mohlhenrich  
STEVEN M. MOHLHENRICH  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was delivered on February 22, 2018, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Steven M. Mohlhenrich  
STEVEN M. MOHLHENRICH  
Assistant United States Attorney